

# Notice of Allowability

Application No.

09/768,189

Examiner

Barbara P. Badio, Ph.D.

Applicant(s)

LEVY ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_\_.
2. ☒ The allowed claim(s) is/are 1,3-5,9,13,14,21,28,33-41,44,45,47-49,51,55 and 58-70.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 8/3/04.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

Barbara P. Badio, Ph.D.  
Primary Examiner  
Art Unit: 1616

### EXAMINER'S AMENDMENT

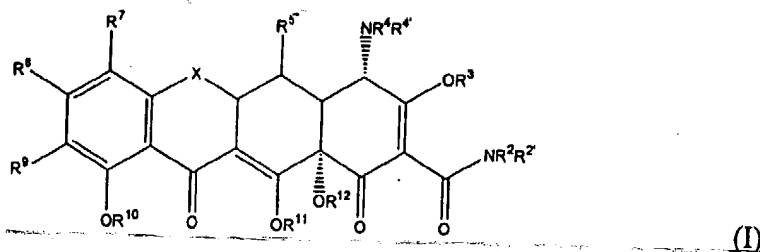
1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Cynthia Soroos on August 3, 2004.

The application has been amended as follows:

Claim 1 has been rewritten as follows:--

1. A method for controlling *Cryptosporidium parvum* in a mammal, comprising administering to said mammal an effective amount of a tetracycline compound, such that *Cryptosporidium parvum* is controlled in said mammal, wherein said tetracycline compound is of formula I:



wherein:

X is CHR<sup>6</sup>;

R<sup>2</sup>, R<sup>4</sup> and R<sup>4'</sup> are each hydrogen, alkyl, alkenyl, alkynyl, alkoxy, alkylthio, alkylsulfinyl, alkylsulfonyl, alkylamino, arylalkyl, aryl, heterocyclic, or heteroaromatic;

R<sup>2'</sup>, R<sup>3</sup>, R<sup>10</sup>, R<sup>11</sup> and R<sup>12</sup> are each hydrogen;

R<sup>5</sup> is hydroxy, hydrogen, thiol, alkanoyl, aroyl, alkaroyl, aryl, heteroaromatic, alkyl, alkenyl, alkynyl, alkoxy, alkylthio, alkylsulfinyl, alkylsulfonyl, alkylamino, or an arylalkyl;

R<sup>6</sup>, R<sup>7</sup>, and R<sup>8</sup> are each independently hydrogen, hydroxyl, halogen, thiol, alkyl, alkenyl, alkynyl, aryl, alkoxy, alkylthio, alkylsulfinyl, alkylsulfonyl, alkylamino, or an arylalkyl;

R<sup>9</sup> is alkyl or alkenyl.

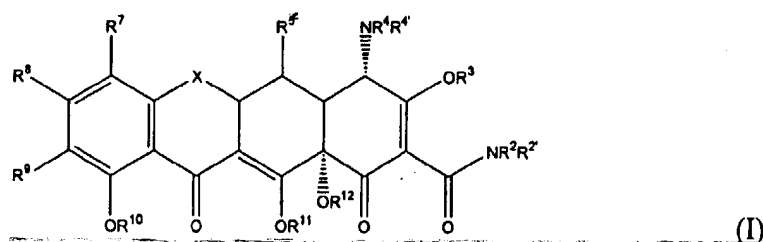
and pharmaceutically acceptable salts thereof.

Claim 13 has been rewritten as follows:--

13. The method of claim 1, wherein R<sup>6</sup> is alkyl.

Claim 45 has been rewritten as follows:--

45. A method for treating a *Cryptosporidium parvum* related disorder in a mammal, comprising administering to said mammal an effective amount of a tetracycline compound such that said mammal is treated for said disorder, wherein said tetracycline compound is of formula I:



**wherein:**

X is CHR<sup>6</sup>;

R<sup>2</sup>, R<sup>4</sup> and R<sup>4'</sup> are each hydrogen, alkyl, alkenyl, alkynyl, alkoxy, alkylthio, alkylsulfinyl, alkylsulfonyl, alkylamino, arylalkyl, aryl, heterocyclic, or heteroaromatic;

$R^{2'}$ ,  $R^3$ ,  $R^{10}$ ,  $R^{11}$  and  $R^{12}$  are each hydrogen;

R<sup>5</sup> is hydroxy, hydrogen, thiol, alkanoyl, aroyl, alkaroyl, aryl, heteroaromatic, alkyl, alkenyl, alkynyl, alkoxy, alkylthio, alkylsulfanyl, alkylsulfonyl, alkylamino, or an arylalkyl;

R<sup>6</sup>, R<sup>7</sup>, and R<sup>8</sup> are each independently hydrogen, hydroxyl, halogen, thiol, alkyl, alkenyl, alkynyl, aryl, alkoxy, alkylthio, alkylsulfinyl, alkylsulfonyl, alkylamino, or an arylalkyl;

R<sup>9</sup> is alkyl or alkenyl.

and pharmaceutically acceptable salts thereof.

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Claim 51 has been rewritten as follows:--

51.           The method of claim 45, wherein R<sup>6</sup> is alkyl.

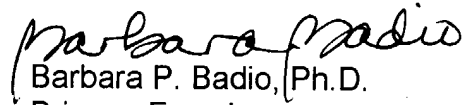
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### ***Telephone Inquiry***

2.     Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara P. Badio, Ph.D. whose telephone number is 571-272-0609. The examiner can normally be reached on M-F from 6:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Barbara P. Badio, Ph.D.  
Primary Examiner  
Art Unit 1616

BB  
August 3, 2004